

MAKE IT YOUR BUSINESS

TUCSON TAX & LICENSE ASSISTANCE

THE EIGHT MOST FREQUENT CITY TAX ERRORS

This publication contains general information about business privilege (sales) tax. For complete details, refer to the City of Tucson Business Privilege Tax Ordinance and Official Rules and Regulations AKA Tucson Tax Code. In cases of inconsistency or omission, the language of the Tucson Tax Code will prevail.

REAL PROPERTY RENTALS

Just One Commercial Rental: Apparently many taxpayers believe that if they own only one real property rental it is not taxable. But this is not the case. Even if the lessor leases to a related lessee, it is taxable. For example, if a landlord leases to a Subchapter S Corporation that the landlord has an interest in, the transaction is taxable. If you receive rental income from the leasing of real property located in Tucson, you must obtain a Business Privilege License from the City of Tucson. If you lease to the tenant in actual possession, you must pay sales tax. Note: Residential rentals to permanent tenants are not taxable.

Property Taxes and Other Rental Income: Landlords with net-net-net leases tend to under report their rental income. The most frequently found problem is when the tenant pays the landlord's real property taxes directly to the county treasurer. Many times the landlord fails to report this constructive rental income on the tax return form. The Tucson Tax Code states that payments made by the lessee to, or on behalf of, the lessor for mortgage payments, property taxes, repairs or improvements are considered to be part of the taxable gross income. Also, charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income. However, if individual utility meters have been installed for each tenant and the lessor separately charges each tenant for the exact billing from the utility company, such charges are exempt. Security deposits are taxable at the time they are forfeited by the lessee.

CONSTRUCTION CONTRACTING

Taxable Sales: An owner who sells improved real property that consists of custom, model or inventory homes, regardless of the stage of completion of such homes, or improved residential or commercial lots is subject to sales tax on the sale. Also, an owner who sells improved real property, other than that described above, prior to completion, or before the end of twenty four months after the improvements are substantially complete is subject to tax on the sale. "Improved real property" means any real property upon which a structure has been built; or where improvements have been made to land containing no structure (such as

paving or landscaping); or certain properties which have been renovated; or where water, power, and streets have been built to the property line.

Exempt Subcontracting Income: Subcontractors are not liable for tax on a job under the following circumstances:

If you are working for a construction contractor who is not the owner:

1. Obtain a written declaration that the construction contractor is liable for the tax for the project, and
2. Obtain their city privilege license number.

If you are working for a person selling manufactured buildings:

1. Obtain a written declaration that this seller is liable for the tax for the site preparation and set-up, and
2. Obtain their city privilege license number.

If you are working for the owner of the project:

1. Obtain a written declaration that the owner is improving the property for sale, and is liable for the construction contracting tax, and
2. Obtain the owner's city privilege tax number. If you are working for the owner, and he is not improving the property for sale, you are liable for the tax on your income from the project. You must prove your income is exempt.

RETAIL SALES

Out-of-State Sales

Disallowed out-of-state sales are a continuing problem. Unlike the state, the city requires that an out of state customer place their order from out of state if they do not wish to pay city sales tax. Be sure to document customer location at the time the order is placed. The following are examples of documentation that the customer placed the order from outside the State of Arizona:

1. A purchase order indicating an out-of-state company (may also qualify as a resale).
2. A letter or note, with the postmarked envelope, sent to the vendor with the payment as a follow-up to a phone order.

3. An envelope postmarked out-of-state and a copy of a check drawn on an out-of-state bank.
4. An envelope postmarked out-of-state and a money order showing the customer's address.
5. A credit card receipt indicating "mail order" in the usual signature space.
6. For businesses having an "800" number, a telephone company log or billing noting the originating location of the phone call orders.

Also, document that the item is to be used out of state by a non-resident of Arizona and is shipped to your customer at a location outside the state. The following are examples of documentation that the customer took possession or delivery outside the state:

1. A copy of common carrier receipts (ie, Federal Express, UPS, U.S. Postal Service).
2. A receipt from a federally licensed customs house broker.
3. Copies of import documents showing inspection by foreign customs officials.
4. When a seller delivers merchandise in their own vehicle, a driver's trip sheet or log indicating that the driver delivered the merchandise out-of-state and witnessed by a Notary of that state or gas or hotel receipts for the day of delivery from the out-of-state destination.

Out-Of-City Sales: The out-of-city sales exemption is sometimes misunderstood. To take a valid out-of-city deduction, the order must be received at the seller's permanent out-of-city business location. Also, transfer of title and possession must take place outside the city and the stock must be located outside the city. If the order is received at your business location in Tucson, you must pay 2% tax to the City of Tucson even if the customer is located in another city. If your business is located outside Tucson city limits but you come into the city to take orders and/or deliver goods, you must contact the License Section to determine which business licenses are required.

Sales To Nonprofit Organizations and Governments: Most sales to city, county, or state governments or government agencies or school districts are taxable. Most sales to non-profit organizations, including churches, are taxable. Sales to qualifying hospitals, qualifying community health centers, or qualifying health care organizations that hold a current year exemption letter from the state or City of Tucson are exempt. Obtain a copy of their letter for documentation of a sale to a nonprofit primary health care facility. Sales to non-profit organizations that engage in training, job placement or rehabilitation programs, or testing for mentally or physically handicapped people are exempt if the property is used exclusively for those activities.

Artists: Sales of paintings, sculptures or similar works of fine art sold by the original artist are exempt from tax. Sales of "art creations," such as jewelry, macrame, glasswork, pottery, woodwork, metal work, furniture and clothing, when such "art creations" have a dual purpose, both aesthetic and utilitarian, are taxable.

Motor Vehicle Sales: Sales to nonresidents of Arizona for use outside Arizona if the vendor ships or delivers the vehicles out of Arizona are not taxable.

FOR INFORMATION CALL, WRITE, OR VISIT:

The Audit Section about tax questions.

City of Tucson - Audit Division
255 W. Alameda - Second Floor
P.O. Box 27210
Tucson, Arizona 85726-7210
791-4681

The License Section about licensing.

City of Tucson - License Section
255 W. Alameda - First Floor
P.O. Box 27210
Tucson, Arizona 85726-7210
791-4566

To purchase a copy of the tax code:

The City of Tucson Business Privilege Tax Ordinance and Official Rules and Regulations is available from the City Clerk's office. The phone number is 791-4213. Call for current price and postage. There is a copy at the main library, governmental reference section, for review. 101 N. Stone, Third Floor. Call 791-4114 for current library hours.

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